

**MEMORANDUM**

TO: County Council

FROM: Robert H. Drummer, Legislative Attorney



SUBJECT: **Introduction:** Expedited Bill 3-09, Local Small Business Reserve Program – Amendments

Expedited Bill 3-09, Local Small Business Reserve Program – Amendments, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced on February 10, 2009. A public hearing is tentatively scheduled for March 3 at 1:30 p.m.

Expedited Bill 3-09 would amend the County's procurement law by increasing the minimum percentage of the combined dollar value of eligible contracts that each using department must award to a local small business. Each using department is currently required to award a minimum of 10% of its combined dollar value of eligible contracts to certified local small businesses during a fiscal year. Certain types of contracts are exempt from this requirement. A business can be certified as a local small business under the regulations if:

- It is independently owned and operated.
- It is not a subsidiary of another business.
- It has a physical location in Montgomery County, Maryland with at least 50% of its employees or that generates at least 50% of its economic activity.
- It does not exceed the following size or gross sales criteria:
  - The wholesale operations (sale of goods in large quantities usually for resale) of the business, if any, did not employ more than 15 persons, or the gross sales of these business operations did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years.
  - The retail (sale of goods in small quantities directly to the ultimate consumer) operations of the business, if any, did not employ more than 15 persons, or the gross sales of these business operations did not exceed an average of \$2,500,000 in its most recently completed 3 fiscal years.
  - The manufacturing (producing goods from raw materials by hand or by machinery) operations of the business, if any, did not employ more than 20

- persons, or the gross sales of these business operations did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.
- The services operations of the business, if any, did not employ more than 25 persons, or the gross sales of these business operations did not exceed an average of \$2,500,000 in its most recently completed 3 fiscal years.
- The construction operations of the business, if any, did not employ more than 25 persons, or the gross sales of these business operations did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years.

Expedited Bill 3-09 would increase the minimum percentage each using department must award to certified local small businesses to 20% of the combined dollar value of eligible contracts during a fiscal year. Using departments are authorized to designate contract solicitations for bids or proposals from certified local small businesses only in order to meet this minimum. The Local Small Business Reserve Program was established by Bill 23-04, effective January 1, 2006. Bill 23-04 provided that the law, and the regulations adopted pursuant to it, expires on December 31, 2009. Expedited Bill 3-09 would take effect on the date on which it becomes law, which could occur during the current fiscal year. Bill 3-09, along with the law establishing the Program, would expire in the middle of FY10 unless the Council enacts a law extending the sunset date.

This packet contains:

Expedited Bill 3-09  
Legislative Request Report  
County Executive Memo  
Fiscal Impact Statement

Circle #

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Expedited Bill No. 3-09  
Concerning: Local Small Business  
Reserve Program - Amendments  
Revised: 2/5/09 Draft No. 1  
Introduced: February 10, 2009  
Expires: August 10, 2010  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: December 31, 2009  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the request of the County Executive

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**AN ACT** to:

- 1) amend the County's Local Small Business Reserve Program by increasing the minimum percentage of the combined dollar value of certain contracts that each using department must award to local small businesses; and
- 2) generally amend the County's Local Small Business Reserve Program.

By amending

Montgomery County Code  
Chapter 11B, Contracts and Procurement  
Section 11B-66

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1 Section 11B-66 is amended as follows:**

**11B-66. Local Small Business Reserve Program.**

- (a) Except as provided in Subsection (c), this Article applies to all procurements by a using department.
- (b) A using department's procurement procedures must award a minimum of [10] 20 percent of the using department's combined dollar value of contracts issued for goods, services, or construction to local small businesses, subject to method 2 regulations.
- (c) The total dollar value of procurements by a using department does not include:
  - (1) the value of any contract to which this Article does not apply because of a conflict with state or federal law or a grant requirement;
  - (2) a preexisting contract executed by the County;
  - (3) a non-competitive contract award made under Section 11B-14;
  - (4) a public entity or emergency procurement;
  - (5) any waiver made under Section 11B-67(f);
  - (6) any procurement where no local small business is qualified or able to perform the contract; or
  - (7) any single procurement that is estimated to exceed \$10 million.

**Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

## LEGISLATIVE REQUEST REPORT

Expedited Bill 3-09

### Local Small Business Reserve Program—Revisions

<b>DESCRIPTION:</b>	Provides revisions to the local small business reserve program to increase the minimum percentage of the combined dollar value of contracts that the using departments must award to local small businesses.
<b>PROBLEM:</b>	The current economic climate impacts local small businesses disproportionately to other businesses.
<b>GOALS AND OBJECTIVES:</b>	By increasing the percentage of contracts that must be awarded to local small businesses, the legislation will encourage greater participation in the program.
<b>COORDINATION:</b>	Department of General Services.
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	Not applicable.
<b>SOURCE OF INFORMATION:</b>	David E. Dise, Director, Department of General Services. Kenneth Taylor, Office of Business Relations and Compliance, DGS
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	Not applicable.
<b>PENALTIES:</b>	Not Applicable.

Bill



has → MF  
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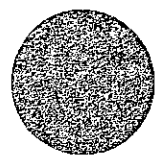
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OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM


February 02, 2009



2009 FEB -3- PM 4:29

Montgomery County

TO: Phil Andrews, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation – Local Small Business Reserve Program

I am attaching for the Council's consideration a bill which would amend the Local Small Business Reserve Program to increase the minimum percentage of the combined dollar value of contracts that departments must award to local small businesses. I am also attaching a Legislative Request Report and a Fiscal Impact Statement for the proposed bill.

This bill is one of four legislative proposals which I am submitting to Council today to implement the 11-point economic plan which I announced in December 2008. Each legislative proposal is designed to ease some of the difficulties experienced by local businesses as a result of the national economic downturn. The current economic climate impacts local small businesses disproportionately to other businesses. By increasing the percentage of contracts that must be awarded to local small businesses, this legislation will encourage greater participation in the program and help retain existing jobs and create opportunities for new jobs.

My 11-point economic plan included a proposal to provide an economic impact analysis for all legislative and regulatory changes which would analyze the impact of each proposed change on local businesses. We are in the process of completing an economic impact analysis for this bill and will forward it to Council in the near future. I look forward to working with Council as it considers this bill and my other three legislative proposals which provide opportunities for some measure of relief to our business community and residents.

IL:dg

Attachments (3)



OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett  
County Executive

Joseph F. Beach  
Director

MEMORANDUM

January 13, 2009

TO: Phil Andrews, County Council President

FROM: Joseph F. Beach, Director, Office of Management and Budget

SUBJECT: Expedited BM XX – Local Small Business Reserve Program - Revisions

The purpose of this memorandum is to transmit a fiscal impact statement to the Council on the subject legislation.

**LEGISLATION SUMMARY**

The proposed legislation revises the Local Small Business Reserve Program (LSBRP) to increase the minimum percentage of the combined dollar value of contracts that using departments must award to local small businesses.

**FISCAL SUMMARY**

There will be no fiscal impact on County expenditures. Additional administrative burden on the Department of Procurement will be managed within existing resources.

Increasing the LSBRP goal from 10 to 20 percent has a potential economic value to the small business community of \$10 million annually. Directing County spending to local businesses will help sustain the County small business base and provide a healthier business environment during the current downturn in the economy.

Kenneth Taylor with the Department of General Services contributed to and concurred with this analysis.

JFB:brg

c: Tom Street, Assistant Chief Administrative Officer  
Kathleen Boucher, Assistant Chief Administrative Officer  
Dee Gonzalez, Office of the County Executive  
Kenneth Taylor, Department of General Services  
Adam Damin, Office of Management and Budget  
Brady Goldsmith, Office of Management and Budget

Office of the Director